

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
021216-000610US

First named inventor: Vaughn V. SMIDER et al.

Confirmation No.: 4790

Application No.: 10/578,054

Art Unit:

Filed: November 2, 2004

Examiner:

Title: **NON-FLUORESCENT, NON-ENZYMATIC, CHEMILUMINESCENT AQUEOUS ASSAY**

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee — required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee
☒ Small entity — fee \$ 810.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity — fee \$ _____ (37 CFR 1.17(m))
2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.


3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. ☒ For fees authorized to be paid hereinabove, the Commissioner is hereby authorized to charge the fees, any deficiency of fees, and credit of any overpayments, to Deposit Account No. 20-1430.
5. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature	_____ April 29, 2009 Date
 _____ Typed or printed name	_____ 57,430 Registration Number, if applicable
_____ ShengFeng Chen Address	_____ (415) 576-0200 Telephone Number

Customer No. 20350
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

 Address

- Enclosures: ☒ Fee Payment
☒ Reply
☐ Terminal Disclaimer Form
☒ Additional sheets containing statements establishing unintentional delay
☐ Other:


CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ Filed Via EFS-WEB on the date shown below to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

April 29, 2009

Date



Signature

Jo Ann Honcik Dallara

Typed or printed name of person signing certificate

I hereby certify that this correspondence is being filed via
EFS-Web with the United States Patent and Trademark Office
on April 29, 2009

PATENT
Docket No.: 021216-000610US

TOWNSEND and TOWNSEND and CREW LLP

By: 

Jo Ann Honcik Dallara

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

SMIDER and HERIOT

Application No.: 10/578,054

Filed: November 02, 2004

For: A NON-FLUORESCENT, NON-
ENZYMATIC, CHEMILUMINESCENT
AQUEOUS ASSAY

Customer No.: 20350

Confirmation No.: 4790

PETITION FOR REVIVAL OF AN
APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY
UNDER 37 C.F.R. § 1.137(b)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

Applicants respectfully petition to revive the above-identified application number under 37 C.F.R. § 1.137(b). According to the MPEP, 37 CFR §1.137(b) sets forth four requirements, and applicants have met all these conditions.

First, 37 CFR §1.137(b) requires a reply to the outstanding Office Action or notice. The outstanding Office Action was the Notification of Defective Response mailed February 4, 2008. A reply is submitted herein with this petition.

Second, 37 CFR §1.137(b) requires payment of the petition fee. Accordingly applicants hereby authorize the Commissioner to charge the petition fee of \$810 (small entity) as set forth in §1.17(m) to the undersigned's Deposit Account No. 20-1430.

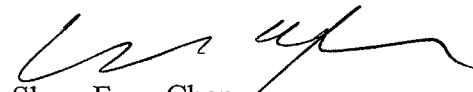
Third, 37 CFR §1.137(b) requires a statement from applicants that the delay is unintentional. The entire delay, including the delay from the due date for reply through

the date of this petition was unintentional. The aforementioned Notification of Defective Response mailed February 4, 2008, was never received by applicants' attorney. A status check of the case on PAIR uncovered the Notification of Defective Response. The undersigned's company docket records for this time period were checked --it was determined the Notification was never received since there were no docket entries. Therefore, the undersigned believes that this communication must have been lost in the mail.

Fourth, 37 CFR §1.137(b) requires Applicants file a terminal disclaimer unless a utility application was filed on or after June 8, 1995. The above identified application was filed November 2, 2004; hence a terminal disclaimer is not required.

Additionally, the Commissioner is authorized to deduct any additional fees from, or credit overpayment to the undersigned's Deposit Account No. 20-1430. In view of the foregoing, applicants submit that the conditions set forth by 37 C.F.R. §1.137(b) have been fully satisfied, and therefore the above-identified application should be revived. Grant of this Petition is respectfully requested.

Respectfully submitted,


ShengFeng Chen
Reg. No. 57,430

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
SFC:kaw/jhd